

# MONTANA LEGISLATIVE HISTORY

Chapter 457 19 93

Bill H \_\_\_\_\_ S 91

Original bill & history ☒ c

H. Committee on Labor & Emp.

Hearing Date(s) 3-2 ☒ c

3-11 ☒ c

\_\_\_\_\_ c

\_\_\_\_\_ c

Date Out \_\_\_\_\_ c

S. Committee on Labor & Emp

Hearing Date(s) 1-14 ☒ c

1-17 ☒ c

1-26 ☒ c

\_\_\_\_\_ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee \_\_\_\_\_

Report \_\_\_\_\_

EFFECTIVE DATE: 01/01/95—SECTIONS 1 & 2, CONTINGENT  
UPON VOTER APPROVAL

SB 91 INTRODUCED BY CHRISTIAENS, ET AL.  
EXTEND WORKERS' COMPENSATION COVERAGE TO PRERELEASE,  
DIVERSIONARY PROGRAMS

|      |                                            |    |    |
|------|--------------------------------------------|----|----|
| 1/07 | INTRODUCED                                 |    |    |
| 1/07 | REFERRED TO LABOR & EMPLOYMENT RELATIONS   |    |    |
| 1/07 | FIRST READING                              |    |    |
| 1/07 | FISCAL NOTE REQUESTED                      |    |    |
| 1/12 | FISCAL NOTE RECEIVED                       |    |    |
| 1/13 | FISCAL NOTE PRINTED                        |    |    |
| 1/14 | HEARING                                    |    |    |
| 1/27 | COMMITTEE REPORT—BILL PASSED AS AMENDED    |    |    |
| 1/28 | 2ND READING PASSED                         | 28 | 14 |
| 1/29 | 3RD READING PASSED                         | 32 | 15 |
|      | TRANSMITTED TO HOUSE                       |    |    |
| 1/30 | FIRST READING                              |    |    |
| 1/30 | REFERRED TO LABOR & EMPLOYMENT RELATIONS   |    |    |
| 3/02 | HEARING                                    |    |    |
| 3/16 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED |    |    |
| 3/27 | 2ND READING CONCURRED                      | 93 | 1  |
| 3/30 | 3RD READING CONCURRED                      | 97 | 3  |
|      | RETURNED TO SENATE WITH AMENDMENTS         |    |    |
| 4/05 | 2ND READING AMENDMENTS CONCURRED           | 50 | 0  |
| 4/06 | 3RD READING AMENDMENTS CONCURRED           | 50 | 0  |
| 4/13 | SIGNED BY PRESIDENT                        |    |    |
| 4/15 | SIGNED BY SPEAKER                          |    |    |
| 4/16 | TRANSMITTED TO GOVERNOR                    |    |    |
| 4/21 | SIGNED BY GOVERNOR                         |    |    |
|      | CHAPTER NUMBER 457                         |    |    |
|      | EFFECTIVE DATE: 10/01/93                   |    |    |

SB 92 INTRODUCED BY KLAMPE  
REVISE COUNTY PARK DISTRICT LAW

|      |                                         |    |   |
|------|-----------------------------------------|----|---|
| 1/07 | INTRODUCED                              |    |   |
| 1/07 | REFERRED TO LOCAL GOVERNMENT            |    |   |
| 1/07 | FIRST READING                           |    |   |
| 1/19 | HEARING                                 |    |   |
| 1/22 | COMMITTEE REPORT—BILL PASSED AS AMENDED |    |   |
| 1/23 | 2ND READING PASSED                      | 41 | 3 |
| 1/25 | 3RD READING PASSED                      | 45 | 5 |
|      | TRANSMITTED TO HOUSE                    |    |   |
| 1/26 | FIRST READING                           |    |   |
| 1/26 | REFERRED TO LOCAL GOVERNMENT            |    |   |
| 3/09 | HEARING                                 |    |   |
| 3/10 | COMMITTEE REPORT—BILL CONCURRED         |    |   |
| 3/10 | PLACED ON CONSENT CALENDAR              |    |   |
| 3/12 | 3RD READING CONCURRED                   | 91 | 5 |
|      | RETURNED TO SENATE                      |    |   |
| 3/16 | SIGNED BY PRESIDENT                     |    |   |
| 3/16 | SIGNED BY SPEAKER                       |    |   |
| 3/17 | TRANSMITTED TO GOVERNOR                 |    |   |
| 3/22 | SIGNED BY GOVERNOR                      |    |   |
|      | CHAPTER NUMBER 144                      |    |   |
|      | EFFECTIVE DATE: 10/01/93                |    |   |

Senate BILL NO. 91

INTRODUCED BY

SRice C. Tuss Ream

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING WORKERS' COMPENSATION DISABILITY AND REHABILITATION COMPENSATION BENEFITS TO CERTAIN INMATES EMPLOYED WHILE PARTICIPATING IN PRERELEASE CENTER PROGRAMS AND OFFENDERS EMPLOYED WHILE PARTICIPATING IN COMMUNITY CORRECTIONS PROGRAMS AND DIVERSIONARY PROGRAMS; AND AMENDING SECTIONS 39-71-118 AND 39-71-744, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, workman, and volunteer firefighter defined. (1) The terms "employee", "workman", or "worker" mean:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such the corporations for

pay. Casual employees as defined by 39-71-116 are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic service is excluded.

(b) a recipient of general relief who is performing work for a county of this state under the provisions of 53-3-303 through 53-3-305 and any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer as defined in this chapter and whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs as outlined-above while they are on the premises of a public school or community college.

(d) students enrolled and in attendance in programs of vocational-technical education at designated vocational-technical centers;

(e) an airman or other person employed as a volunteer under 67-2-105; or

(f) a person, other than a juvenile as defined in subsection (1)(b), performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer as defined in this chapter and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (f):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(g) an inmate who is employed while participating in a prerelease center program or an offender who is employed while participating in a community corrections program or a diversionary program.

(2) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a fire

company organized and funded by a county, a rural fire district, or a fire service area.

(3) (a) If the employer is a partnership or sole proprietorship, such the employer may elect to include as an employee within the provisions of this chapter any member of such the partnership or the owner of the sole proprietorship devoting full time to the partnership or proprietorship business.

(b) In the event of such an election as provided in subsection (3)(a), the employer must serve upon the employer's insurer written notice naming the partners or sole proprietor to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (3)(d). A partner or sole proprietor is not considered an employee within this chapter until such notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of weekly wage for weekly compensation benefits, the electing employer may

1 elect not less than \$900 a month and not more than 1 1/2  
2 times the average weekly wage as defined in this chapter.

3 (4) The trustees of a rural fire district, a county  
4 governing body providing rural fire protection, or the  
5 county commissioners or trustees for a fire service area may  
6 elect to include as an employee within the provisions of  
7 this chapter any volunteer firefighter. A volunteer  
8 firefighter who receives workers' compensation coverage  
9 under this section may not receive disability benefits under  
10 Title 19, chapter 12.

11 (5) An employee, workman, or worker in this state whose  
12 services are furnished by a person, association, contractor,  
13 firm, or corporation, other than a temporary service  
14 contractor, to an employer as defined in 39-71-117 is  
15 presumed to be under the control and employment of the  
16 employer. This presumption may be rebutted as provided in  
17 39-71-117(3).

18 (6) For purposes of this section, an "employee,  
19 workman, or worker in this state" means:

20 (a) a resident of Montana who is employed by an  
21 employer and whose employment duties are primarily carried  
22 out or controlled within this state; or

23 (b) a nonresident of Montana whose principal employment  
24 duties are conducted within this state on a regular basis  
25 for an employer."

1 **Section 2.** Section 39-71-744, MCA, is amended to read:

2 "39-71-744. Benefits not due while claimant is  
3 incarcerated -- exceptions. (1) A claimant is not eligible  
4 for any disability or rehabilitation compensation benefits  
5 while the claimant is incarcerated in a correctional  
6 institution, such as the Montana state prison, the Swan  
7 River forest camp, or the Montana women's correctional  
8 center, as the result of conviction of a felony. The insurer  
9 remains liable for medical benefits. No A time limit on  
10 benefits otherwise provided in this chapter is not extended  
11 due to a period of incarceration.

12 (2) A claimant who is employed while participating in a  
13 prerelease center program or an offender who is employed  
14 while participating in a community corrections program or a  
15 diversionary program is eligible as an employee under  
16 39-71-118."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0091, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill would extend workers' compensation disability and rehabilitation compensation benefits to certain inmates employed while participating in prerelease center programs and offenders employed while participating in community corrections programs and diversionary programs.

ASSUMPTIONS:

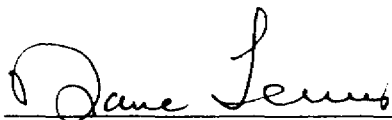
1. Employers currently pay workers' compensation insurance coverage of individuals employed through prison work release programs although such workers are ineligible for benefits if injured.
2. Employers who hire individuals participating in work release programs are likely to be insured by the State Fund but may be either self-insured or have coverage through a private carrier for workers compensation.
3. Work release participants who are injured on the job currently receive medical care through the program with jurisdiction (e.g., the Montana Department of Corrections and Human Services or county correctional programs).

FISCAL IMPACT:

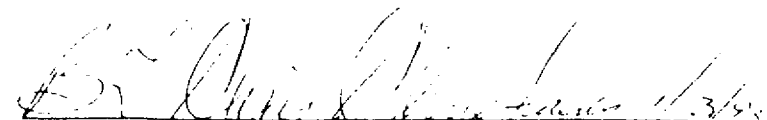
The fiscal impact is inestimable due to the inability to confidently predict an injury rate and average cost per injury for a relatively small number of individuals participating in work release programs throughout the state. The State Fund would experience a marginal increase in risk exposure with no corresponding increase in premium revenue. However, the impact on an estimated \$160 million in claims payments per year would be negligible. The Department of Corrections and Human Services would potentially experience minor savings.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Inestimable, potentially minor savings.

 1-12-93

DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 1-31-93

CHRIS CHRISTIAENS, PRIMARY SPONSOR      DATE

Fiscal Note for SB0091, as introduced

SB 91

# SENATE BILLS STATUS SHEET

## SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

| BILL<br>NUMBER | ENTERED<br>COMMITTEE | CONSIDERED                 | OUT OF<br>COMMITTEE | DP<br>DO PASS | DNP<br>DO NOT<br>PASS | DPA<br>DO PASS<br>AS<br>AMENDED | DNPA<br>DO NOT<br>PASS AS<br>AMENDED |
|----------------|----------------------|----------------------------|---------------------|---------------|-----------------------|---------------------------------|--------------------------------------|
| SB 15          | 1/9/93               | 1/26/93                    | 1/26/93             |               |                       | 1/26/93                         |                                      |
| SB 33          | 1/4/93               | 1/5/93                     | 1/19/93             |               |                       | 1/19/93                         |                                      |
| SB 62          | 1/4/93               | 1/14/93                    | TABLED              |               |                       |                                 |                                      |
| SB 91          | 1/7/93               | 1/26/93 <sup>1/14/93</sup> | 1/26/93             |               |                       | 1/26/93                         |                                      |
| SB 116         | 1/11/93              | 1/14/93                    | 1/19/93             | 1/19/93       |                       |                                 |                                      |
| SB 160         | 1/15/93              | 1/26/93                    | 1/26/93             |               |                       | 1/26/93                         |                                      |
| SB 163         | 1/15/93              | 1/28/93                    | 2/11/93             |               |                       | 2/11/93                         |                                      |
| SB 164         | 1/15/93              | 1/28/94                    | 2/4/93              |               |                       | 2/4/93                          |                                      |
| SB 184         | 1/18/93              | 1/26/93                    | 2/2/93              |               |                       | 2/2/93                          |                                      |
| SB 207         | 1/19/93              | 2/2/93                     | 2/2/93              |               |                       | 2/2/93                          |                                      |
| SB 212         | 1/20/93              | 2/13/93                    | 2/13/93             |               | 2/13/93               |                                 |                                      |
| SB 223         | 1/20/93              | 2/4/93                     | 2/9/93              |               |                       | 2/9/93                          |                                      |
| SB 256         | 1/26/93              | 2/9/93                     | 2/9/93              |               |                       | 2/9/93                          |                                      |

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON LABOR & EMPLOYMENT RELATIONS**

**Call to Order:** By Sen. Bill Wilson, Vice-Chair, on January 14, 1993, at 1:05 P.M.

#### **ROLL CALL**

##### **Members Present:**

Sen. Tom Towe, Chair (D)  
Sen. Bill Wilson, Vice Chair (D)  
Sen. Gary Aklestad (R)  
Sen. Chet Blaylock (D)  
Sen. Jim Burnett (R)  
Sen. Tom Keating (R)  
Sen. J.D. Lynch (D)

##### **Members Excused:**

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Council  
Patricia Brooke, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing: SB 116, SB 62, SB 91  
Executive Action: None

#### **HEARING ON SB 116**

##### **Opening Statement by Sponsor:**

Sen. Harp, Senate District 4, introduced SB 116 and stated that he was introducing the bill on behalf of the Montana Food Distributors Association. The bill allows for the exclusion of overtime pay and addresses only outside salesmen, not route people. Currently under the federal Fair Labor Standards Act Montana Food Distributors do not have to pay overtime and under Montana law we already make some exemptions. The intent of this bill is to coincide with the federal law.

##### **Proponents' Testimony:**

Bill Stevens, Montana Food Distributors Association testified in favor of the bill. He stated that the bill addresses only outside sales in the food industry. Many people already think that the exclusion provision exists and it has created some



therefore, they can not be put into the trust.

Sen. Towe asked Chuck Hunter how to address the controls or limits of pension plans. Chuck Hunter stated that the Montana Contractors Association's plan is a very good one, but some plans that were approved by ERISA are not because the ERISA standards are broad and allow for abuse. He stated that he would be interested in working with the groups to find some answers.

Sen. Towe asked Mr. Fenderson if he had a comment regarding how to solve the problem. Mr. Fenderson said that the unions would like to sit down with the contractors association. He noted that the state needs to try to provide protection to the workers who are often mobile and generally do not have the same plan from employer to employer.

Sen. Towe and Sonny Lockrem discussed what minimum standards are needed.

Sen. Towe asked Don Judge if he had a comment regarding how to solve the problem. Don Judge stated that ERISA does not pre-empt regulatory authority and does not protect employees. He suggested that employers be required to file benefit plans in order to receive public contracts and that penalties be increased for violations.

Sen. Towe asked Sonny Lockrem if he is willing to sit down with various parties to work on an amendment or a separate bill. Sonny Lockrem answered that "he's always been available."

Sen. Aklestad urged that the bill not be clouded with too much to make it unworkable.

Sen. Blaylock urged that the parties get together and aim to protect workers in Montana to ensure that they have health insurance.

Sen. Towe asked that a meeting be held between parties and committee staff and try to stay within the topic of the bill but keep the option open to submit a new bill.

Sen. Blaylock requested that Chuck Hunter be included in the discussions.

**Closing by Sponsor:** Sen. Hager closed.

#### **HEARING ON 91**

#### **Opening Statement by Sponsor:**

Sen. Chris Christiaens, SD 18, opened by saying that this bill will extend workers compensation disability and rehabilitation compensation benefits to certain inmates employed while residents of pre-release centers. He addressed the amendments to the bill

(Exhibit #3). Sen. Christiaens explained the system in which the inmates go to work and premiums are paid but if they are injured they receive only medical benefits but no other benefits. This bill will give the inmates temporary total disability during the period of time they are in the pre-release center. The fiscal note says that the costs are inestimable and Sen. Christiaens can not think of more than five people during his time as director of a pre-release center that would have been receiving these benefits.

**Proponents' Testimony:**

Jim Pomroy, Deputy Administrator at the Department of Corrections and Human Services, stated that the department is proposing a substantial expansion of the community programs. He stated that an entitlement to regular benefits should be a part of the normalization process. He discussed the employment of inmates and responsibilities they have and encouraged the committee to pass SB 91.

**Opponents' Testimony:** None

**Questions From Committee Members and Responses:**

Sen. Blaylock asked Jim Pomroy how many more people there are at Deer Lodge than what it was designed for. Jim Pomroy stated that there are currently 170 more inmates than what the prison was designed for and said that by 1997 there are expected to be 2200 inmates and the prison is designed for roughly 1200 inmates.

Sen. Keating asked Sen. Christiaens if the pre-release centers are covered by workers comp when the inmates are working. Sen. Christiaens replied that the inmates are covered for medical benefits but not disability and rehabilitation.

Sen. Keating asked that if the pre-release centers are on contract with the state are the inmates technically employees of the state. Sen. Christiaens said that it is a complicated issue. The pre-release inmates contract with the state. When the inmates go to the center they sign a contract and work for minimum wage and assume their medical costs.

Sen. Keating asked if this bill passes would it extend coverage or benefits and would the pre-release employers pay premiums or the state. Sen. Christiaens answered that the employer pays. Sen. Keating then asked if we were sticking the employer with additional costs. Sen. Christiaens explained that the employer already pays the premiums but there is no temporary total disability coverage for the inmates. Sen. Towe clarified that the employer pays full premiums but is not permitted to pay full benefits.

Sen. Towe asked what the purpose of the amendment is. Sen. Christiaens responded that the amendment takes out the community service portion of the bill because they are unable to come up with funding for community service worker's premium but he is

willing to work with the committee. He stated that regarding community service nobody wishes to be the employer. It has been an agency responsibility to pay the premiums and the pre-release centers cannot afford to pay the premiums.

Sen. Towe stated that paying for workers comp costs less than the liability insurance coverage. Sen. Christiaens replied that the money is simply not available but he would like to see them covered somehow.

Sen. Keating stated that workers comp is based on hourly wages and asked what wage is attributed to community service. Sen. Christiaens replied that it is the minimum wage.

Sen. Aklestad asked when the coverage of an inmate stops. Sen. Christiaens replied that the coverage stops when the inmate leaves the place of employment.

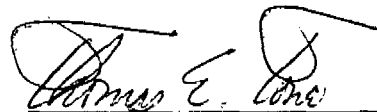
**Closing by Sponsor:** Sen. Christiaens closed.

**Introductions:** Commissioner Laurie Ekanger, Department of Labor, introduced the staff of the Department of Labor and explained the responsibility areas of each.

**Announcements:** Sen. Towe announced that executive action will be taken on Tuesday, January 19th on the bills before the committee.

**ADJOURNMENT**

**Adjournment: 2:50**



SEN. TOM TOWE, Chair



PATRICIA BROOKE, Secretary

TET/PMB

## ROLL CALL

SENATE COMMITTEE LABOR

DATE 1/14/93

[illegible]

F08

Attach to each day's minutes

Amendments to Senate Bill No. 91  
First Reading Copy

Requested by Senator Christiaens  
For the Senate Labor Committee

Prepared by Eddye McClure  
January 13, 1993

SENATE LABOR & EMPLOYMENT  
EXHIBIT NO. 3  
DATE 1/14/93  
BILL NO. SB 91

1. Title, lines 7 and 8.

Following: "PROGRAMS" on line 7

Strike: remainder of line 7 through "PROGRAMS" on line 8

2. Title, line 9.

Following: "AMENDING"

Strike: "SECTIONS 39-71-118 AND"

Insert: "SECTION"

3. Page 1, lines 13 through page 5, line 25.

Strike: section 1

Renumber: subsequent section

4. Page 6, line 3.

Following: "(1)"

Strike: "A"

Insert: "Except as provided in subsection (2), a"

5. Page 6, line 12.

Following: "A"

Strike: "claimant"

Insert: "person"

6. Page 6, lines 13 and 14.

Following: "program" on line 13

Strike: remainder of line 13 through "program" on line 14

7. Page 6, lines 15 and 16.

Following: "eligible"

Strike: the remainder of line 15 through "39-71-118" on line 16

Insert: "for temporary total benefits as provided in 39-71-701  
and medical benefits for a work-related injury. Other  
disability or rehabilitation benefits are not payable while  
the worker is participating in a prerelease center or  
community corrections program. This subsection does not  
apply to an employee performing community service described  
in 39-71-118(1)(f) "

DATE 1/14/93

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: SB 62, SB 91, SB 116

| Name          | Representing | Bill<br>No. | Check One |        |
|---------------|--------------|-------------|-----------|--------|
|               |              |             | Support   | Oppose |
| Chuck Caspell | I.U.O.E #400 | 62          |           | X      |
| CARL BRICSON  | CARPENTERS   | 62          |           | ✓      |
| Mich Hamble   | DC HS        | 91          | ✓         |        |
| Jim Pomroy    | DC HS        | 91          | ✓         |        |
| Tom G. Foley  | AFSCME       | 62          |           | X      |
|               |              |             |           |        |
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### VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

## MINUTES

### MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

**Call to Order:** By Sen. Towe, Chair, on January 19, 1993, at 1:05 P.M.

#### ROLL CALL

**Members Present:**

Sen. Tom Towe, Chair (D)  
Sen. Bill Wilson, Vice Chair (D)  
Sen. Gary Aklestad (R)  
Sen. Jim Burnett (R)  
Sen. Tom Keating (R)  
Sen. J.D. Lynch (D)

**Members Excused:** Sen. Chet Blaylock

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Council  
Patricia Brooke, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: None  
Executive Action: SB 15, SB 33, SB 91, SB 116

#### EXECUTIVE ACTION ON SB 15

**Motion:** Sen. Lynch offered an amendment to SB 15(Exhibit #1). He stated this amendment makes SB 15 applicable to schools but not municipal governments. Eddye McClure explained that the amendment puts the bill back in original form but makes it mandatory for school districts to follow a grievance procedure. Sen. Lynch moved the amendment.

**Discussion:** Sen. Aklestad stated the amendment favors one group and SB 15 generally would infringe on bargaining agreements.

**Vote:** Motion carried unanimously and the amendment was adopted. Senators Towe, Wilson, Aklestad, Burnett, Keating, and Lynch voted in favor of the amendment.

**Discussion:** Because there was disagreement on the amendment the committee decided to pass on further action on the amended bill

for the day and consider it at a later time.

EXECUTIVE ACTION ON SB 33

**Motion:** Sen. Lynch moved to adopt the amendment for SB 33(Exhibit #2).

**Discussion:** Legal counsel, Eddye McClure, explained the amendment and discussed the communication with the U.S. Department of Labor and their comparison to the Colorado bill. The U.S. Department of Labor stated that this bill does not contradict federal law since the bill does not include the phrase "freeze rates" even though essentially it is doing the same thing.

**Vote:** The committee voted unanimously to adopt the amendment.

**Motion:** Sen. Lynch moved for DO PASS.

**Vote:** The committee voted unanimously for the motion that the bill DO PASS and it was referred to the Senate floor for the 2nd reading.

EXECUTIVE ACTION ON SB 91

**Motion:** Sen. Lynch moved to adopt the amendment(Exhibit #3) for SB 91.

**Discussion:** Sen. Aklestad stated that the amendment broadens the bill from the original intent and he doesn't think this is a good idea. Sen. Towe stated this amendment limits the bill by removing community service programs from the bill. Chuck Hunter, Montana Department of Labor, explained that while at pre-release centers inmates earn wages and this bill will allow them to receive the full benefits for temporary total from workers compensation if they are injured. The committee discussed at what time inmates are covered by their employer's insurance.

**Vote:**

The motion to amend carried.

Senators in favor of the amendment were Wilson, Lynch, Burnett and Towe. Senators opposed to the amendment were Keating and Aklestad.

**Motion:** Sen. Lynch moved that the bill Do Pass.

**Vote:** The motion failed. Senators opposed to SB 91 were Keating, Aklestad, and Burnett. Senators in favor of SB 91 were Lynch, Wilson, and Towe. The bill remains in committee.

EXECUTIVE ACTION ON SB 116



## ROLL CALL VOTE

SENATE COMMITTEE Labor BILL NO. SB 91

DATE 1/19/93 TIME 1 A.M. P.M.

[illegible]

Patricia Brooke  
SECRETARY

Sen. Tom Torne  
CHAIR

MOTION: By Sen. Lynch that SB 91 DO PASS.  
(motion failed, Bill remains in Committee)

Amendments to Senate Bill No. 91  
First Reading Copy

Requested by Senator Christiaens  
For the Senate Labor Committee

Prepared by Eddye McClure  
January 13, 1993

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. #3

DATE 1/19/93

BILL NO. SB 91

1. Title, lines 7 and 8.

Following: "PROGRAMS" on line 7

Strike: remainder of line 7 through "PROGRAMS" on line 8

2. Title, line 9.

Following: "AMENDING"

Strike: "SECTIONS 39-71-118 AND"

Insert: "SECTION"

3. Page 1, lines 13 through page 5, line 25.

Strike: section 1

Renumber: subsequent section

4. Page 6, line 3.

Following: "(1)"

Strike: "A"

Insert: "Except as provided in subsection (2), a"

5. Page 6, line 12.

Following: "A"

Strike: "claimant"

Insert: "person"

6. Page 6, lines 13 and 14.

Following: "program" on line 13

Strike: remainder of line 13 through "program" on line 14

7. Page 6, lines 15 and 16.

Following: "eligible"

Strike: the remainder of line 15 through "39-71-118" on line 16

Insert: "for temporary total benefits as provided in 39-71-701  
and medical benefits for a work-related injury. Other  
disability or rehabilitation benefits are not payable while  
the worker is participating in a prerelease center. This  
subsection does not prohibit the reinstatement of other  
benefits upon release from incarceration, nor does it apply  
to an employee performing community service described in 39-  
71-118(1)(f) "

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON LABOR & EMPLOYMENT RELATIONS**

**Call to Order:** By Chair Tom Towe, on January 26, 1993, at 1:00 P.M.

#### **ROLL CALL**

##### **Members Present:**

Sen. Tom Towe, Chair (D)  
Sen. Bill Wilson, Vice Chair (D)  
Sen. Gary Aklestad (R)  
Sen. Chet Blaylock (D)  
Sen. Jim Burnett (R)  
Sen. Tom Keating (R)  
Sen. J.D. Lynch (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Eddy McClure, Legislative Council  
Patricia Brooke, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing: SB 184  
Executive Action: SB 160, SB 15, SB 91

#### **HEARING ON SB 184**

##### **Opening Statement by Sponsor:**

Senator Blaylock, Senate District 43, opened the hearing by stating SB 184 is a Department of Labor and Industry bill intended to conform state statutes with federal statutes to prevent the loss of administrative funding and federal unemployment tax credits for employers. SB 184 will clarify several provisions of the state statutes and streamline the administration of the unemployment insurance program in Montana.

##### **Proponents' Testimony:**

Bob Jenson, Administrator-Unemployment Insurance Division, explained SB 184 clarifies the unemployment insurance program (Exhibit #1). Mr. Jenson proposed an amendment to strike section 3309b, line 20, on page 9 because the section addresses

Vote: The Committee voted in favor of SB 15 DO PASS AS AMENDED with Senators Aklestad, Keating, and Burnett voting no.

EXECUTIVE ACTION ON SB 91

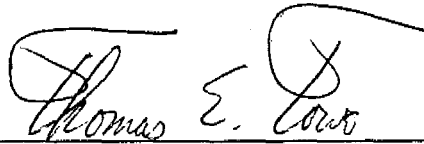
Motion: Sen. Lynch moved SB 91 DO PASS AS AMENDED.

Discussion: Sen. Towe stated the intent of SB 91 is to allow total temporary benefits to inmates at pre-release centers.

Vote: The Committee voted SB 91 DO PASS AS AMENDED with Senators Aklestad and Keating voting against.

ADJOURNMENT

Adjournment: 2:20 P.M.



SEN. TOM TOWE, Chair



PATRICIA BROOKE, Secretary

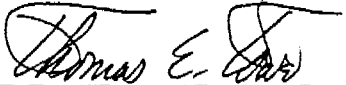
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 27, 1993

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 91 (first reading copy -- white), respectfully report that Senate Bill No. 91 be amended as follows and as so amended do pass.

Signed:   
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, lines 7 and 8.

Following: "PROGRAMS" on line 7

Strike: remainder of line 7 through "PROGRAMS" on line 8

2. Title, line 9.

Following: "AMENDING"

Strike: "SECTIONS 39-71-118 AND"

Insert: "SECTION"

3. Page 1, lines 13 through page 5, line 25.

Strike: section 1

Renumber: subsequent section

4. Page 6, line 3.

Following: "(1)"

Strike: "A"

Insert: "Except as provided in subsection (2), a"

5. Page 6, line 12.

Following: "A"

Strike: "claimant"

Insert: "person"

6. Page 6, lines 13 and 14.

Following: "program" on line 13

Strike: remainder of line 13 through "program" on line 14

7. Page 6, lines 15 and 16.

Following: "eligible"

Strike: the remainder of line 15 through "39-71-118" on line 16

Insert: "for temporary total benefits as provided in 39-71-701 and medical benefits for a work-related injury. Other disability or rehabilitation benefits are not payable while the worker is participating in a prerelease center. This subsection does not prohibit the reinstatement of other benefits upon release from incarceration, nor does it apply to an employee performing community service described in 39-71-118(1)(f)"

-END-

 Amd. Coord.  
Sec. of Senate

210758SC.San

## ROLL CALL VOTE

SENATE COMMITTEE Labor BILL NO. SB 91

DATE 1/26/93 TIME 2:15 A.M. P.M.

NAME \_\_\_\_\_

YES NO

[illegible]

Patricia Brooke  
SECRETARY

Sen. Tom Torne  
CHAIR

MOTION: By Sen. Lynch that SB 91 DO PASS AS  
AMENDED

COMMITTEE--HOUSE LABOR & EMPLOYMENT RELATIONS

Page 4

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

|        |                    |      |      |                                                                              |              |                   |      |            |                         |
|--------|--------------------|------|------|------------------------------------------------------------------------------|--------------|-------------------|------|------------|-------------------------|
| SB0091 | CHRISTIAENS, CHRIS | 1/30 | 3/02 | EXTEND WORKER'S COMPENSATION COVERAGE TO PRERELEASE, DIVERSIONARY PROGRAMS   | 3/4 DEFERRED | CONCUR AS AMENDED | 3/11 | VOTE: 16-0 | 3/16                    |
| SB0116 | HARP, JOHN         | 1/23 | 2/04 | EXCLUDING CERTAIN OUTSIDE SALESMEN FROM OVERTIME AND MINIMUM WAGE LAWS       |              | CONCUR            | 2/4  | VOTE: 16-0 | 2/10                    |
| SB0160 | RYE, DAVID         | 1/30 | 3/02 | PROHIBIT DISCRIMINATION FOR LAWFUL USE OF PRODUCT AWAY FROM WORK             |              | CONCUR AS AMENDED | 3/4  | VOTE: 15-1 | 3/06                    |
| SB0163 | HARP, JOHN         | 3/11 | 3/16 | CREATE SAFETY CULTURE ACT REQUIRING EMPLOYERS ESTABLISH SAFETY PROGRAMS      |              | CONCUR            | 3/18 | VOTE: 15-1 | 3/20                    |
| SB0164 | HARP, JOHN         | 3/11 | 3/16 | CREATE FRAUD INVESTIGATION OFFICE IN DEPT OF JUSTICE & PREVENTION IN ST FUND |              | CONCUR            | 3/18 | VOTE: 16-0 | 3/20                    |
| SB0184 | BLAYLOCK, CHET     | 2/08 | 3/02 | GENERALLY REVISE UNEMPLOYMENT INSURANCE LAWS                                 |              | CONCUR AS AMENDED | 3/4  | VOTE: 16-0 | 3/06                    |
| SB0207 | WILSON, WILLIAM    | 2/06 | 3/04 | REVISE THE MONTANA WAGE PROTECTION LAWS                                      |              | CONCUR            | 3/4  | VOTE: 15-1 | 3/06                    |
| SB0223 | BARTLETT, SUE      | 2/23 | 3/09 | REVISE CHILD LABOR LAWS                                                      |              | CONCUR AS AMENDED | 3/11 | VOTE: 10-6 | 3/16                    |
| SB0256 | SWYSGOOD, CHUCK    | 2/23 | 3/04 | DEFINE NONRESIDENT EMPLOYEE OR WORKER IN THIS STATE FOR WORK COMP PURPOSES   |              | CONCUR AS AMENDED | 3/11 | VOTE: 16-0 | 3/16                    |
| SB0270 | KEATING, TOM       | 2/23 | 3/04 | ESTABLISH EMPLOYMENT SECURITY ACCOUNT AND ALLOW FUND TRANSFERS               |              | CONCUR            | 3/4  | VOTE: 13-3 | 3/06                    |
| SB0329 | KLAMPE, TERRY      | 3/01 | 3/09 | REVISE PREVAILING WAGE ON PROJECTS FINANCED FROM BOND PROCEEDS AFTER 6/30/93 |              | CONCUR AS AMENDED | 3/11 | VOTE: 9-7  | LABOR & EMPLOYMENT 3/16 |
| SB0329 | KLAMPE, TERRY      | 3/19 |      | REVISE PREVAILING WAGE ON PROJECTS FINANCED FROM BOND PROCEEDS AFTER 6/30/93 |              | CONCUR AS AMENDED | 3/11 | VOTE: 9-7  | 3/22                    |

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chairman Tom Nelson, on March 2, 1993, at 3:00 p.m.

#### ROLL CALL

##### Members Present:

Rep. Tom Nelson, Chair (R)  
Rep. Gary Feland, Vice Chair (R)  
Rep. Vicki Cocchiarella (D)  
Rep. Jerry Driscoll (D)  
Rep. Alvin Ellis (R)  
Rep. Pat Galvin (D)  
Rep. Sonny Hanson (R)  
Rep. Norm Mills (R)  
Rep. Bob Pavlovich (D)  
Rep. Bruce Simon (R)  
Rep. Carolyn Squires (D)  
Rep. Bill Tash (R)  
Rep. Rolph Tunby (R)  
Rep. Carley Tuss (D)

Members Excused: Rep. Benedict, Rep. Whalen

Members Absent: None

Staff Present: Susan Fox, Legislative Council  
Cherri Schmaus, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### Committee Business Summary:

Hearing: SB 91, SB 160 & SB 184  
Executive Action: None

#### HEARING ON SB 160

##### Opening Statement by Sponsor:

Sen. David Rye, SD 47, Yellowstone County, sponsor, opened on SB 160 by referring to a article in the July 1989 issue of State Government News. He read part of the article to the committee. Sen. Rye stated that the purpose of SB 160 is to allow employees to do anything they want on their off time, as long as it is legal. The employers can prohibit smoking and drinking while



REP DRISCOLL asked Sen. Rye why the wording "effect in any manner" was used in the bill and not the word "impaired".

SEN. RYE replied that he does not know. He referred Rep. Driscoll to Mr. Anderson. Mr. Anderson told Rep. Driscoll that these amendments were proposed by Senator Toews.

REP. MILLS told Sen. Rye that he has employees that work all over. These employees drive his vehicles. He asked if he is responsible if they wreck his vehicle?

SEN. RYE told him that he is not responsible as long as it is job related, and the employees were driving a company vehicle.

REP. TASH asked Sen. Rye if he was willing to except the proposed amendments?

SEN. RYE stated that he can live with the proposed amendments because the bill is modeled after similar legislation in 20 other states.

REP. DRISCOLL asked Mr. Moerer had any proposed amendments.

REP. DRISCOLL asked Mr. Moerer if this bill also includes superintendents who have a drink at lunch.

Mr. Moerer stated that the proposed amendment covers all school employees.

Closing by Sponsor:

SEN. RYE closed on SB 160 by apologizing for all the amendments. He referred to page 2, lines 4 through 8 and stated that these sections take care of a potential problem that could arise at certain places of employment. An example of a potential problem is an employer of the Mormon Church who smokes and drinks. He again stated that an employees business is his/her own on their off time.

HEARING ON SB 91

Opening Statement by Sponsor:

SEN. CHRISTIAENS, SD 18, Cascade, Sponsor, stated that the purpose of SB 91 is to extend worker's compensation coverage to prerelease and diversionary programs. He stated that as inmates, these employees are required to pay child support, restitution and they must start a savings account. This bill will extend the inmates' coverage if they are employed outside the prison. This bill does not cover those who are seriously injured. This bill will help inmates transition back into the community. The employers of these inmates pay workers compensation anyway, the inmates might as well receive full benefits.

Proponents' Testimony:

Jim Pomroy, Administrator, Correction Division of Corrections and Human Services, referred to 39-71-118 MCA and stated that this excludes inmates from some of the worker's compensation benefits. These inmates are unable to meet their financial obligations if they are hurt while working. These injuries may cause inmates to return to prison until they are able to work again.

Opponents' Testimony: NoneQuestions From Committee Members and Responses:

REP. PAVLOVICH asked Mr. Pomroy if the prison picks up the tab if an inmate is hurt while part of the prerelease program.

Mr. Pomroy stated that they prison must find a bed for them if they are unable to work. This room and board is costly to the prison.

REP. SIMON asked Sen. Christiaens to explain who is covered if the end of the bill, from line 19 down, is taken out.

SEN. CHRISTIAENS stated that originally this bill was suppose to cover those performing community service.

REP. SIMON asked Sen. Christiaens what category house arrest falls under, the diversionary or prerelease program.

Sen Christiaens stated that house arrest falls under probation or parole, but it can be used once in a while under diversionary programs. The bill was only intended to apply to residents of the prison because when the inmates are on parole, they are eligible for worker's compensation benefits.

REP DRISCOLL asked Mr. Pomroy if prerelease is considered a correctional institution? He referred to page 6, line 7 of the bill.

Mr. Pomroy stated that prerelease is not considered a correctional institution.

REP. DRISCOLL asked Jim Murphy if the compromise in 1987 means that if an inmate is hurt they receive workers compensation benefits, but not temporary total disability?

Jim Murphy stated that those inmates in a prerelease center must be able to work, or they return to prison.

REP. DRISCOLL asked why an inmate cannot file on an old claim? He referred to page 6. He stated that these inmates are eligible for temporary total disability and medical benefits, but not rehabilitation.

REP. TASH told Mr. Pomroy that he toured the prison last month and saw drawers full of medication that were assigned to these inmates, but refused. He asked if these drugs cost the state money?

Mr. Pomroy stated that at the present time, those inmates on prerelease pay for their own prescriptions unless they are very expensive.

REP. HANSON stated that he feels this bill is just a way to increase the budget for the institutions and to cut medical expenses outside the unit.

Mr. Pomroy stated that this bill is a means of providing compensation. He stated that these inmates are already eligible for medical benefits, this bill just allows them to receive money also.

REP. HANSON stated that the employer pays worker's compensation and the state is not involved.

Mr. Pomroy replied that the state is not involved.

REP. MILLS asked Mr. Pomroy how long it takes for these employees to work their way back up to prerelease if they are hurt on-the-job? He also asked what the criteria is for moving back up to prerelease.

Mr. Pomroy stated that it depends on how many beds are available. The process could take weeks, months or even years. The criteria is that the inmate must be able to work full-time without problems. Furthermore, they must find their own job.

REP ELLIS asked Mr. Pomroy if the employers pay worker's compensation, how their wage is determined?

Mr. Pomroy stated that the wage is whatever the employer chooses to pay.

Closing by Sponsor:

SEN. CHRISTIAENS closed by stating that society needs to do everything possible to make these inmates taxpayers rather than tax users.

HEARING ON SB 184

Opening Statement by Sponsor:

SEN. BLAYLOCK, SD 43, Yellowstone County, sponsor, opened on SB 184 by stating that the purpose of the bill is to generally revise unemployment insurance laws. He referred to page 4, line 11 through 16. He stated that this section was originally stricken from the bill; however, the newspaper is worried that

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Labor COMMITTEE BILL NO. SB 91  
DATE 3-2-93 SPONSOR(S) C. Christensen

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|------------------|--------------|---------|--------|
| Jim Pomeroy      | DCHS         | ✓       |        |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chairman Nelson, on March 11, 1993, at 3:05

#### ROLL CALL

##### Members Present:

Rep. Tom Nelson, Chair (R)  
Rep. Gary Feland, Vice Chair (R)  
Rep. Steve Benedict (R)  
Rep. Vicki Cocchiarella (D)  
Rep. Jerry Driscoll (D)  
Rep. Alvin Ellis (R)  
Rep. Pat Galvin (D)  
Rep. Sonny Hanson (R)  
Rep. Norm Mills (R)  
Rep. Bob Pavlovich (D)  
Rep. Bruce Simon (R)  
Rep. Carolyn Squires (D)  
Rep. Bill Tash (R)  
Rep. Rolph Tunby (R)  
Rep. Carley Tuss (D)  
Rep. Tim Whalen (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council  
Cherri Schmaus, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### Committee Business Summary:

Hearing: None  
Executive Action: SB 91, SB 381, SB 329, SB 223, SB 256,  
SB 342

#### EXECUTIVE ACTION ON SB 91

Motion: REP. SIMON MOVED SB 91 DO BE CONCURRED IN. REP. SIMON MOVED TO AMEND.

Discussion: REP. TUSS asked REP. SIMON if diversionary program is defined anywhere?

REP. SIMON told her that he does not know if it is defined in

law, but it means sentenced directly from court.

Motion/Vote: REP. SIMON MOVED TO AMEND SB 91. REP. BENEDICT called for the question on the amendment. A voice vote was taken. The motion to DO PASS CARRIED with REP. COCCHIARELLA & REP. PAVLOVICH voting no.

Vote: REP. SIMON MOVED SB 91 DO BE CONCURRED IN AS AMENDED. The question was called for. A voice vote was taken. The motion CARRIED unanimously. REP. SIMON agreed to carry SB 91 on the House Floor.

#### EXECUTIVE ACTION ON SB 381

Motion: REP. DRISCOLL MOVED SB 381 DO BE CONCURRED IN.

Discussion: REP. DRISCOLL proposed an amendment to the committee to amend the penalties for underinsured. He referred to page 1, section 2, line 22 and 23 and asked that it be amended to adopt similar language in 39-71-504 MCA. He stated that underinsured must "knowingly" underinsure. If it is an honest mistake, the fine could double the premium or raise it up to \$200.

REP. TUNBY asked REP. DRISCOLL what happens if this goes on and on for many years?

REP. DRISCOLL stated that nothing happens until they are caught cheating the system.

REP. SIMON asked REP. DRISCOLL to add a three-year statute of limitation to his amendment.

REP. BENEDICT suggested to REP. DRISCOLL to take out intent of the employer on line 3, page 2 of the bill.

Motion/Vote: REP. DRISCOLL MOVED THE AMENDMENT. The question was called for on the amendment. A voice vote was taken. The motion to DO PASS CARRIED unanimously.

Vote: REP. ELLIS MOVED SB 381 BE CONCURRED IN AS AMENDED. The question was called. A voice vote was taken. The motion CARRIED unanimously.

#### EXECUTIVE ACTION ON SB 329

Motion: REP. DRISCOLL MOVED SB 329 BE CONCURRED IN.

Motion/Vote:

REP. BENEDICT MOVED THE KLAMPE AMENDMENTS. REP. BENEDICT explained the Klampe amendments to the committee. The question